

# United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	David H. Coar	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	03 C 2117	DATE	3/18/2004
CASE TITLE	Bell v. City of Chicago, <i>et al.</i>		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

## MOTION:

Defendant's Motion to Partially Dismiss Complaint

## DOCKET ENTRY:

- (1) ☐ Filed motion of [ use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due \_\_\_\_\_.
- (3) ☐ Answer brief to motion due \_\_\_\_\_. Reply to answer brief due \_\_\_\_\_.
- (4) ☐ Ruling/Hearing on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (7) ☐ Trial[set for/re-set for] on \_\_\_\_\_ at \_\_\_\_\_.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to \_\_\_\_\_ at \_\_\_\_\_.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]  
☐ FRCP4(m) ☐ Local Rule 41.1 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] For the reasons set forth in the attached Memorandum Opinion and Order, defendant's motion to partially dismiss the complaint (Doc. # 10) is granted. Plaintiff's claims against defendant City of Chicago Department of Health, as well as her claim for punitive damages against defendant City of Chicago, are dismissed, with prejudice.

*David H. Coar*

- (11) [For further detail see order attached to the original minute order.]

<input type="checkbox"/> No notices required, advised in open court. <input type="checkbox"/> No notices required. <input type="checkbox"/> Notices mailed by judge's staff. <input type="checkbox"/> Notified counsel by telephone. <input checked="" type="checkbox"/> Docketing to mail notices. <input type="checkbox"/> Mail AO 450 form. <input type="checkbox"/> Copy to judge/magistrate judge.		U.S. DISTRICT COURT CLERK 2004 MAR 19 PM 1:48	number of notices	Document Number  <i>23</i>
acd/lc courtroom deputy's initials	date docketed <i>3-22-04</i> docketing deputy initials  date mailed notice		mailing deputy initials	
		Date/time received in central Clerk's Office		



Thereafter, plaintiff sought and was granted leave to file a second amended complaint, which she filed on August 12, 2003. In her second amended complaint, plaintiff realleged counts I - IV of her first amended complaint (which asserted Title VII claims against defendants City of Chicago and City of Chicago Department of Health). She also added two defendants, Fred Woods and Donald Becker (both City of Chicago employees), against whom she asserted two counts: (1) a claim under 42 U.S.C. § 1983 for violation of her civil rights (Count V); and (2) a claim for slander *per se* under Illinois common law (Count VI).

Defendants did not move to dismiss plaintiff's second amended complaint. However, because the second amended complaint did not differ from the first amended complaint in any respect relevant to defendant City of Chicago's motion, the court will treat defendant's motion as one to partially dismiss the second amended complaint.

## **II. Analysis**

Under Fed. R. Civ. P. 8(a), a complaint need only set forth a short and plain statement of the claim showing that the pleader is entitled to relief. *Leatherman v. Tarrant County Narcotics Unit*, 507 U.S. 163, 168, 113 S. Ct. 1160 (1993). "The purpose of a motion to dismiss is to test the sufficiency of the complaint, not to decide the merits." *Triad Assocs., Inc. v. Chicago Hous. Auth.*, 892 F.2d 583, 586 (7<sup>th</sup> Cir. 1989). In reviewing a motion to dismiss for failure to state a claim, the court accepts as true all well-pleaded facts in the complaint and draws all reasonable inferences in favor of the plaintiff. *See Ameritech Corp. v. McCann*, 297 F.3d 582, 585 (7<sup>th</sup> Cir. 2002). A complaint should be dismissed only if there is no set of facts in support of the claim that would entitle the plaintiff to relief. *See Ledford v. Sullivan*, 105 F.3d 354, 356 (7<sup>th</sup> Cir. 1997).

**A. Defendant City of Chicago Department of Health Is Not a Suable Entity.**

Defendant City of Chicago contended in its opening brief that defendant City of Chicago Department of Health is merely an “organizational division” and “operating department” of the City, itself, and, as such, is not a suable entity. *See, e.g., Chan v. City of Chicago*, 777 F. Supp. 1437, 1442 (N.D. Ill. 1991) (dismissing Chicago Police Department from case on grounds that it had “no separate legal existence apart from the City of Chicago, and the department [was] therefore not a suable entity”). Plaintiff did not, in response, contend otherwise (or contend anything at all, as she did not file a response) and, thereby, effectively conceded the point. Plaintiff’s claims against defendant City of Chicago Department of Health are therefore dismissed, with prejudice. *See Clay v. City of Chicago*, No. 96 C 3684, 1996 U.S. Dist. LEXIS 15626, at \*4-6 (N.D. Ill. Oct. 22, 1996) (dismissing claims against City of Chicago Department of Health where the plaintiff conceded that the Department of Health is merely a department of the City).

**B. Plaintiff Cannot Maintain a Claim for Punitive Damages Against Defendant City of Chicago.**

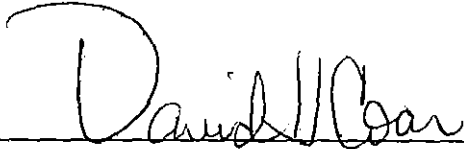
Defendant City of Chicago is a municipality and, as such, cannot be held liable for punitive damages under Title VII. *See* 42 U.S.C. § 1981a(b)(1); *Bielicki v. City of Chicago*, No. 97 C 1471, 1997 U.S. Dist. LEXIS 6880, at \*13 (N.D. Ill. May 8, 1997) (“municipalities are expressly exempted from liability for punitive damages under Title VII”); *White v. City of Chicago*, No. 96 C 3329, 1996 U.S. Dist. LEXIS 16338, at \*14 n.6 (N.D. Ill. Nov. 1, 1996) (“[m]unicipalities are immune from punitive damages imposed under the civil rights laws”); *see also Adams v. City of Chicago*, 865 F. Supp. 445, 447 (N.D. Ill. 1994) (noting that Illinois has

reaffirmed its local governments' immunity from punitive damages). Plaintiff's claim for punitive damages against defendant City of Chicago is dismissed.

### **III. Conclusion**

For the foregoing reasons, defendant City of Chicago's motion to partially dismiss is granted. Specifically, plaintiff's claims against defendant City of Chicago Department of Health, as well as her claim for punitive damages against defendant City of Chicago, are dismissed, with prejudice.

**Enter:**

  
\_\_\_\_\_  
**David H. Coar**  
**United States District Judge**

**Dated: March 18, 2004**